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**Federal Communications Commission**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
South Florida Water Management District	)	File No.: EB-FIELDSCR-13-00012782
Owner of Antenna Structure No. 1064263	)	
	)	NOV No.: V201432600002
	)	
Homestead, Florida	)	

**NOTICE OF VIOLATION**

**Released: December 23, 2013**

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to South Florida Water Management District (SFWMD), owner of antenna structure number 1064263 in Homestead, Florida. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On December 12, 2013, an agent of the Enforcement Bureau's Miami Office inspected antenna structure number 1064263 located in Homestead, Florida and observed the following violations:

- a. 47 C.F.R. § 17.51(b): "All high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified."  
According to the FCC Antenna Structure Registration (ASR) database, antenna structure number 1064263 is required to have a dual lighting system as specified in FCC Paragraphs A1, H, 3, 11, 21, and 23. During the daytime inspection, the agent observed that the top-mounted medium intensity white strobe was not functioning.
- b. 47 C.F.R. § 17.47(a)(2): "The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: . . . (2) Shall provide and properly maintain an automatic alarm system designed to detect any failure of such lights as to provide indication of such failure to the owner." A SFWMD representative

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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stated to an agent that antenna structure 1064263 utilizes an automatic alarm system designed to detect and alert them of any light failure, but the representative stated that the system first alerted them of the outage on December 13, 2013, a day after agents observed the light outage.

- c. 47 C.F.R. § 17.48(a): “The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: (a) shall report immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration any observed or otherwise known extinguishment or improper functioning of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes.” A SFWMD representative stated to an agent that they became aware of the light outage on December 13, 2013, but SFWMD did not report the outage until December 16, 2013, after they were advised by an agent.
- d. 47 C.F.R. § 17.23: “Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the Federal Aviation Administration’s (FAA’s) painting and lighting recommendations set forth on the structure’s FAA determination of “no hazard,” as referenced in the . . . FAA Advisory Circulars.” The FCC’s ASR database currently states that antenna structure 1064263 is 61.3 meters in height and requires a dual lighting system in accordance with FAA Study 2009-ASO-4841-OE and FCC Paragraphs A1, H, 3, 11, 21, 23. Specifically, FCC Paragraph 11 requires at least two steady-burning aviation red obstruction lights installed at the approximate midpoint of the tower. The antenna structure does not conform to these recommendations. The agent observed that the structure was not equipped with the required red obstruction lights at the midpoint, and a SFWMD representative confirmed this finding. Therefore, it is in violation of 47 C.F.R. § 17.23. In order to come into compliance with the Commission’s rules, SFWMD must do one of the following: (1) obtain a new FAA “no hazard” determination indicating that the current lighting system is permitted and then submit a modified antenna structure registration to reflect the new “no hazard” determination, (2) submit a modified registration if a new FAA “no hazard” determination already has been obtained, or (3) come into compliance with the current requirements.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, SFWMD must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to

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<sup>3</sup> 47 U.S.C. § 403.

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correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup> The response must describe the periodic inspection practices for the automatic alarm system and the date the system was last inspected and found to be working properly.

4. In accordance with Section 1.16 of the Rules, we direct SFWMD to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of SFWMD with personal knowledge of the representations provided in SFWMD's response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the company's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Miami Office  
P.O. Box 520617  
Miami, FL 33152-0617

6. This Notice shall be sent to South Florida Water Management District at its address of record.

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<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena  
Resident Agent  
Miami Office  
South Central Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).